

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

WAPP TECH LIMITED PARTNERSHIP and
WAPP TECH CORP.,

Plaintiffs,

v.

APPLE INC., CAPITAL ONE, N.A.,
CAPITAL ONE SERVICES, LLC, FROST
BANK, and CULLEN/FROST BANKERS,
INC.,

Defendants.

Civil Action No. 4:25-cv-00230-ALM

JURY TRIAL DEMANDED

**DECLARATION OF EDDY SIMONIAN IN SUPPORT OF
DEFENDANT APPLE INC.'S MOTION TO DISMISS**

I, Eddy Simonian, hereby declare:

1. I am employed by Apple Inc. (“Apple”) in Cupertino, California, where I have worked since 2022. My current title at Apple is US Channel Program Manager, Channel Programs and Initiatives. One of my primary responsibilities is managing the installation and maintenance of fixtures for Apple merchandise at Target stores.

2. I provide this declaration in support of Apple’s motion to dismiss. Unless otherwise indicated below, the statements in this declaration are based upon either my personal knowledge or corporate records maintained by Apple in the ordinary course of business.

3. Certain Target locations contain Apple merchandise displays known as “Apple at Target” shop-in-shops. These displays are referenced in a Target press release dated October 26, 2022, titled “Target and Apple Deepen Collaboration with More Shop-in-Shops and the Best Offer Available Through a Retailer on Apple Fitness+ and More, Just in Time for the Holidays.”¹

4. Provided below is a picture of an exemplary “Apple at Target” shop-in-shop. This image is from a press release by Target.²



¹ See <https://corporate.target.com/press/release/2022/10/target-and-apple-deepen-collaboration-with-more-sh>.

² See <https://corporate.target.com/news-features/article/2022/10/apple-at-target>.

5. As shown in the example image above, the “Apple at Target” shop-in-shop includes certain merchandise display fixtures co-designed by Apple and Target that are inside a Target store and located among other displays for non-Apple merchandise. The co-designed fixtures in the picture above include the wooden merchandise display table shown in the foreground, plus two cabinet units with Apple product marketing graphics and merchandise.

6. The exact number and arrangement of co-designed fixtures in “Apple at Target” shop-in-shops varies among stores based on the size and layout of each store. The example shown in the image is typical of “Apple at Target” shop-in-shops with larger installations. In most Target stores with “Apple at Target” shop-in-shops, the installation consists of fewer fixtures.

7. The Target store located at 3201 Preston Road in Frisco, TX 75034 (store # 1763) is an example of a store with a “Apple at Target” shop-in-shop. However, most Target stores with Apple merchandise do not have an “Apple at Target” shop-in-shop. Instead, most Target stores with Apple merchandise have fewer fixtures for displaying the merchandise. For example, in many Target stores, there is only one fixture: a shelving fixture that includes iPad and Apple Watch merchandise alongside Apple marketing graphics. In some cases, there may be a second shelving fixture with iPhone and AirPods merchandise. As another example, some Target stores display Apple merchandise in end-cap displays, which consist of shelving, merchandise, and marketing graphics that are placed at the end of an aisle.

8. Apple’s website includes a page for locating third-party retailers that sell Apple merchandise. *See* locate.apple.com. Apple’s website does not distinguish Target stores with “Apple at Target” shop-in-shops from other Target stores or other third-party retailers.

9. Fixtures in “Apple at Target” shop-in-shops are part of Target’s store. Apple does not own or operate these fixtures. Apple does not own, lease, or rent any physical space within Target’s stores.

10. Target pays the cost of maintaining the co-designed fixtures that are used in “Apple at Target” shop-in-shops. The fixtures are Target’s property for which Target is responsible. The demonstration models and merchandise within the shop-in-shop belong to Target. Target cleans and stocks the shop-in-shop. Target employees complete all sales transactions for Apple products from the shop-in-shop. Target provides security for the shop-in-shop in the same way that it provides security for the entire Target store. Target also bears responsibility for losses that occur within the shop-in-shop (e.g., theft or personal injury).

11. Because “Apple at Target” shop-in-shops are part of Target’s stores, Target maintains control over the process of installing them. Target initially identifies locations within its own stores to install a shop-in-shop. Apple sets general requirements for where an “Apple at Target” shop-in-shop may be located within Target’s stores and reviews any proposed location to ensure that fixtures are used consistently across retail locations. It is ultimately Target’s decision whether and where to include an “Apple at Target” shop-in-shop within its stores, subject to Apple’s general requirements. Target is responsible for overseeing installation of the co-designed fixtures for “Apple at Target” shop-in-shops. Apple does not install the fixtures and does not maintain them.

12. Target controls all aspects of operating its stores that contain “Apple at Target” shop-in-shops. For example, Target determines the hours of operation for its stores. Target hires its own employees who complete all transactions involving Apple products at Target stores.

Target also owns and manages all inventory of Apple products within its stores. Target sets the prices for the Apple products that it sells.

13. Apple does not send its employees to visit “Apple at Target” shop-in-shops or any other Apple displays at Target locations. Apple employees do not engage with customers or repair products at any Target stores.

14. Target can permanently close storefronts that contain Apple at Target shop-in-shops. Target is not required to consult with Apple before permanently closing its stores, and Apple typically learns of these store closures at the time that Target publicly announces them.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Date: July 25, 2025



Eddy Simonian